

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2470

Entitled “Gilpin County, Colorado—B.L.M. Land Transfer Act of 1994”.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 12), 1994

Mr. CAMPBELL (for himself and Mr. BROWN) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

Entitled “Gilpin County, Colorado—B.L.M. Land Transfer  
Act of 1994”.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FINDINGS AND PURPOSES.**

4       (a) FINDINGS.—Congress finds and declares that—

5               (1) certain scattered parcels of Federal land lo-  
6       cated within Gilpin County, Colorado, are currently  
7       administered by the Secretary of the Interior as part  
8       of the Royal Gorge Resource Area, Canon City Dis-  
9       trict, United States Bureau of Land Management;

1           (2) these land parcels, comprised of approxi-  
2           mately 130 separate tracts of land ranging in size  
3           from approximately 38 acres to much less than an  
4           acre, have been identified as suitable for disposal by  
5           the Bureau of Land Management through its re-  
6           source management planning process and are appro-  
7           priate for disposal; and

8           (3) even though these land parcels are scattered  
9           and small in size, they nevertheless appear to have  
10          a fair market value which may be used by the Fed-  
11          eral Government to exchange for lands which will  
12          better lend themselves to Federal management and  
13          have higher values for future public access, use and  
14          enjoyment, recreation, the protection and enhance-  
15          ment of fish and wildlife and fish and wildlife habi-  
16          tat, and the protection of riparian lands, wetlands,  
17          scenic beauty and other public values.

18          (b) PURPOSE.—It is the purpose of this Act to au-  
19          thorize, direct, facilitate and expedite the land exchange  
20          set forth herein in order to further the public interest by  
21          disposing of Federal lands with limited public utility and  
22          acquire in exchange therefor lands with important values  
23          for permanent public management and protection.

1 **SEC. 2. LAND EXCHANGE.**

2 (a) IN GENERAL.—The exchange directed by this Act  
3 shall be consummated if within 90 days after enactment  
4 of this Act, Lake Gulch, Inc., a Colorado corporation (as  
5 defined in section 4 of this Act), offers to transfer to the  
6 United States pursuant to the provisions of this Act the  
7 offered lands or interests in land described herein.

8 (b) CONVEYANCE BY LAKE GULCH.—Subject to the  
9 provisions of section 3 of this Act, Lake Gulch shall convey  
10 to the Secretary of the Interior all right, title, and interest  
11 in and to the following offered lands:

12 (1) Certain lands comprising approximately 40  
13 acres with improvements thereon located in Larimer  
14 County, Colorado, and lying within the boundaries of  
15 Rocky Mountain National Park as generally depicted  
16 on a map entitled “Circle C Church Camp”, dated  
17 August 1994, which shall upon their acquisition by  
18 the United States and without further action by the  
19 Secretary of the Interior be incorporated into Rocky  
20 Mountain National Park and thereafter be adminis-  
21 tered in accordance with the laws, rules and regula-  
22 tions generally applicable to the National Park Sys-  
23 tem and Rocky Mountain National Park.

24 (2) Certain lands located along the Arkansas  
25 River in Lake County, Colorado, which comprise ap-  
26 proximately 517 acres, as generally depicted on a

1 map entitled “Arkansas River Headwaters Front-  
2 age”, dated August 1994.

3 (3) Certain lands located within and adjacent to  
4 the United States Bureau of Land Management San  
5 Luis Resource Area in Conejos County, Colorado,  
6 which comprise approximately 3,993 acres and are  
7 generally depicted on a map entitled “Quinlan  
8 Ranches Tract”, dated August 1994.

9 (c) SUBSTITUTION OF LANDS.—If one or more of the  
10 precise offered land parcels identified above is unable to  
11 be conveyed to the United States due to appraisal or other  
12 problems, Lake Gulch and the Secretary may mutually  
13 agree to substitute therefor alternative offered lands ac-  
14 ceptable to the Secretary.

15 (d) CONVEYANCE BY THE UNITED STATES.—(1)  
16 Upon receipt of title to the lands identified in subsection  
17 (a) the Secretary shall simultaneously convey to Lake  
18 Gulch all right, title, and interest of the United States,  
19 subject to valid existing rights, in and to the following se-  
20 lected lands:

21 (A) Certain surveyed lands located in Gilpin  
22 County, Colorado, Township 3 South, Range 72  
23 West, Sixth Principal Meridian, Section 18, Lots  
24 118–220, which comprise approximately 195 acres  
25 and are intended to include all federally owned lands

1 in section 18, as generally depicted on a map enti-  
2 tled "Lake Gulch Selected Lands", dated July 1994.

3 (B) Certain surveyed lands located in Gilpin  
4 County, Colorado, Township 3 South, Range 72  
5 West, Sixth Principal Meridian, Section 17, Lots 37,  
6 38, 39, 40, 52, 53, and 54, which comprise approxi-  
7 mately 96 acres, as generally depicted on a map en-  
8 titled "Lake Gulch Selected Lands", dated July  
9 1994.

10 (C) Certain unsurveyed lands located in Gilpin  
11 County, Colorado, Township 3 South, Range 73  
12 West, Sixth Principal Meridian, Section 13, which  
13 comprise approximately 10 acres, and are generally  
14 depicted as parcels 307-326 on a map entitled  
15 "Lake Gulch Selected Lands", dated July 1994:  
16 *Provided, however,* That a parcel or parcels of land  
17 in section 13 shall not be transferred to Lake Gulch  
18 if at the time of the proposed transfer the parcel or  
19 parcels are under formal application for transfer to  
20 a qualified unit of local government. Due to the  
21 small and unsurveyed nature of such parcels pro-  
22 posed for transfer to Lake Gulch in section 13, and  
23 the high cost of surveying such small parcels, the  
24 Secretary is authorized to transfer such section 13  
25 lands to Lake Gulch without survey based on such

1 legal or other description as he determines appro-  
2 priate to carry out the basic intent of the map cited  
3 in this subparagraph.

4 (2) If the Secretary and Lake Gulch mutually agree,  
5 and the Secretary determines it is in the public interest,  
6 the Secretary may utilize the authority and direction of  
7 this Act to transfer to Lake Gulch lands in sections 17  
8 and 13 that are in addition to those precise selected lands  
9 shown on the maps cited in paragraphs (d)(1)(B) and  
10 (d)(1)(C), and which are not under formal application for  
11 transfer to a qualified unit of local government, upon  
12 transfer to the Secretary of additional offered lands ac-  
13 ceptable to the Secretary or upon payment to the Sec-  
14 retary by Lake Gulch of cash equalization money amount-  
15 ing to the full appraised fair market value of any such  
16 additional lands. If any such additional lands are located  
17 in section 13 they may be transferred to Lake Gulch with-  
18 out survey based on such legal or other description as the  
19 Secretary determines appropriate as long as the Secretary  
20 determines that the boundaries of any adjacent lands now  
21 owned by Lake Gulch can be properly identified so as to  
22 avoid possible future boundary conflicts or disputes. If the  
23 Secretary determines surveys are necessary to convey any  
24 such additional lands to Lake Gulch, the costs of such sur-  
25 veys shall be paid by Lake Gulch but shall not be eligible

1 for any adjustment in the value of such additional lands  
2 pursuant to section 206(f)(2) of the Federal Land Policy  
3 and Management Act of 1976 (as amended by the Federal  
4 Land Exchange Facilitation Act of 1988) (43 U.S.C.  
5 1716(f)(2)).

6 (3) Prior to transferring out of public ownership pur-  
7 suant to this Act or other authority of law any lands which  
8 are contiguous to North Clear Creek southeast of the City  
9 of Black Hawk, Colorado, in the County of Gilpin, Colo-  
10 rado, the Secretary shall notify and consult with the gov-  
11 ernments of the County and the City and afford such units  
12 of local government an opportunity to acquire or reserve  
13 pursuant to the Federal Land Policy and Management Act  
14 of 1976 or other applicable law such easements or rights-  
15 of-way parallel to North Clear Creek as may be necessary  
16 to serve public utility line or recreation path needs: *Pro-*  
17 *vided, however,* That any survey or other costs associated  
18 with the acquisition or reservation of such easements or  
19 rights-of-way shall be paid for by the unit or units of local  
20 government concerned.

21 **SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.**

22 (a) EQUALIZATION OF VALUES.—The values of the  
23 lands to be exchanged pursuant to this Act shall be equal  
24 as determined by the Secretary of the Interior utilizing  
25 nationally recognized appraisal standards, including, to

1 the extent appropriate, the Uniform Standards for Federal  
2 Land Acquisition, the Uniform Standards of Professional  
3 Appraisal Practice, the provisions of section 206(d) of the  
4 Federal Land Policy and Management Act of 1976 (43  
5 U.S.C. 1716(d)), and other applicable law. In the event  
6 it is determined that cash equalization moneys are owed  
7 to the United States in the exchange, any such cash  
8 equalization moneys shall be retained by the Secretary of  
9 the Interior and may be utilized by the Secretary until  
10 fully expended to purchase from willing sellers land or  
11 water rights, or a combination thereof, to augment wildlife  
12 habitat and protect and restore wetlands in the Bureau  
13 of Land Management's Blanca Wetlands, Alamosa Coun-  
14 ty, Colorado. Any water rights acquired by the United  
15 States pursuant to this section shall be obtained by the  
16 Secretary of the Interior in accordance with all applicable  
17 provisions of Colorado law, including the requirement to  
18 change the time, place, and type of use of said water rights  
19 through the appropriate State legal proceedings and to  
20 comply with any terms, conditions, or other provisions  
21 contained in an applicable decree of the Colorado Water  
22 Court. The use of any water rights acquired pursuant to  
23 this section shall be limited to water than can be used  
24 or exchanged for water that can be used on the Blanca  
25 Wetlands. Any requirement or proposal to utilize facilities



1 of the San Luis Valley Project, Closed Basin Diversion,  
2 in order to effectuate the use of any such water rights  
3 shall be subject to prior approval of the Rio Grande Water  
4 Conservation District.

5 (b) RESTRICTIONS ON SELECTED LANDS.—(1) Con-  
6 veyance of the selected lands to Lake Gulch pursuant to  
7 this Act shall be contingent upon Lake Gulch executing  
8 an agreement with the United States prior to such convey-  
9 ance, the terms of which are acceptable to the Secretary  
10 of the Interior, and which—

11 (A) grants the United States a covenant that  
12 none of the selected lands (all of which currently lie  
13 outside the State of Colorado's current legally ap-  
14 proved gaming area) shall ever be used for purposes  
15 of gaming should the current legal gaming area ever  
16 be expanded by the State of Colorado; and

17 (B) permanently holds the United States harm-  
18 less for liability and indemnify the United States  
19 against all costs arising from any activities, oper-  
20 ations (including the storing, handling, and dumping  
21 of hazardous materials or substances) or other acts  
22 conducted by Lake Gulch or its employees, agents,  
23 successors or assigns on the selected lands after  
24 their transfer to Lake Gulch: *Provided, however,*  
25 That nothing in this Act shall be construed as either

1       diminishing or increasing any responsibility or liabil-  
2       ity of the United States based on the condition of  
3       the selected lands prior to or on the date of their  
4       transfer to Lake Gulch.

5       (2) Conveyance of the selected lands to Lake Gulch  
6       pursuant to this Act shall be subject to the existing ease-  
7       ment for Gilpin County Road 6.

8       (3) The above terms and restrictions of this sub-  
9       section shall not be considered in determining, or result  
10      in any diminution in, the fair market value of the selected  
11      land for purposes of the appraisals of the selected land  
12      required pursuant to section 3 of this Act.

13      (c) REVOCATION OF WITHDRAWAL.—The Public  
14      Water Reserve established by Executive order dated April  
15      17, 1926 (Public Water Reserve 107), Serial Number Col-  
16      orado 17321, is hereby revoked insofar as it affects the  
17      NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 17, Township 3 South, Range  
18      72 West, Sixth Principal Meridian, which covers a portion  
19      of the selected lands identified in this Act.

20      (d) MANAGEMENT OF CERTAIN LANDS.—Upon their  
21      acquisition by the United States, the lands referred to in  
22      section 2(b)(2) of this Act shall be managed by the Sec-  
23      retary of the Interior in accordance with the laws, rules,  
24      and regulations generally applicable to the public lands,  
25      and, as appropriate, in accordance with cooperative agree-

1 ments such as the existing Arkansas Headwaters Recre-  
2 ation Area Memorandum of Understanding, with special  
3 emphasis on public fishing and recreational access to the  
4 Arkansas River, and riparian and wetland habitat protec-  
5 tion. The acquisition of such lands by the Secretary shall  
6 not be construed to impose any responsibility or liability  
7 on the Secretary with respect to hazardous substances  
8 which may exist on the lands as of the date of their acqui-  
9 sition by the United States. Without precluding any future  
10 determination by the Secretary or appropriate Federal or  
11 State authorities that cleanup of any hazardous sub-  
12 stances which may be found to exist on the property would  
13 be appropriate, nothing in this Act shall be construed to  
14 require the Secretary to undertake any hazardous sub-  
15 stances cleanup activities or studies.

16 **SEC. 4. MISCELLANEOUS PROVISIONS.**

17 (a) DEFINITIONS.—As used in this Act:

18 (1) The term “Secretary” means the Secretary  
19 of the Interior.

20 (2) The term “Lake Gulch” means Lake Gulch,  
21 Inc., a Colorado corporation, or its successors, heirs  
22 or assigns.

23 (3) The term “offered land” means lands to be  
24 conveyed to the United States pursuant to this Act.

1           (4) The term “selected land” means lands to be  
2           transferred to Lake Gulch pursuant to this Act.

3           (5) The term “Blanca Wetlands” means an  
4           area of land comprising approximately 9,290 acres,  
5           as generally depicted on a map entitled “Blanca  
6           Wetlands”, dated August 1994, and any nearby land  
7           which the Secretary may purchase from willing sell-  
8           ers after the date of enactment of this Act utilizing  
9           funds provided by this Act or other funds and man-  
10          age in conjunction with and for the same general  
11          purposes as the land depicted on that map.

12          (b) TIME REQUIREMENT FOR COMPLETING TRANS-  
13          FER.—It is the intent of Congress that unless the Sec-  
14          retary and Lake Gulch mutually agree otherwise the ex-  
15          change of lands authorized and directed by this Act shall  
16          be completed not later than 6 months after the date of  
17          enactment of this Act.

18          (c) ADMINISTRATION OF LANDS ACQUIRED BY  
19          UNITED STATES.—In accordance with the provisions of  
20          section 206(c) of the Federal Land Policy and Manage-  
21          ment Act of 1976 (43 U.S.C. 1716(c)), all lands acquired  
22          by the United States pursuant to this Act shall upon ac-  
23          ceptance of title by the United States and without further  
24          action by the Secretary concerned become part of and be

- 1 managed as part of the administrative unit or area within
- 2 which they are located.

